

" NO4-46-2-2, 1 of 2 Failure to Maintain Diversions "

EVENT VIOLATIONS INSPECTORS STATEMENT

Company/Mine
Permit #

C.W. Mining Company
Bear Cyn. Mines #3 & #4
C/015/025

NOV 100 # NO4-4-2-2
Violation # 1 of 2

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of events below and remember that the event is NOT the same as the violation. Mark and explain each event.

- () a. Activity outside the approved permit area.
- () b. Injury to the public (public safety).
- () c. Damage to property.
- () d. Conducting activities without appropriate approvals.
- () e. Environmental harm.
- () f. Water pollution.
- () g. Loss of reclamation/revegetation potential.
- () h. Reduced establishment, diverse and effective vegetative cover.
- () i. No event occurred as a result of the violation.
- ☒ j. Other. *Failure to Maintain Surface Drainage Plan*

Explanation:

2. Has the event occurred? Yes ☒ No ☐

☒ Yes: Describe it.

☐ No: What would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation:

The permittee placed coal mine waste material generated from the development of the #4 Mine belt entry in ditches D-30U and D-37U. (approximated 20 tons in the 2 locations).

3. Did any damage occur as a result of the violation?

☒ No.

☐ Yes: Describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation:

The coal waste blocked the ditches to the extent that had an event occurred, runoff would have left the ditch, running uncontrolled over the surface, collecting additional suspended solids & bypassing sediment control measures.

B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss.)

- () Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation:

- ☒ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: The permittee has been cited several times prior to this incident for blocked diversions. Although the permittee's representatives were humble, they knew they had done wrong.

- () If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation:

- () Was the operator in violation of a specific permit condition?

Explanation:

- ☒ Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: Yes; NO4-46-1-1 was issued on March 23, 2004 for "failure to maintain diversions" for the following ditches; D-BD, D-3D, D-1U, culvert C-16U, culvert C-15U, ditch D-1D. Remedial action completed by 4/20/2004.

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give dates) and describe the measures the operator took to comply as rapidly as possible.

The inspector was informed on 6/30/2004 that the coal waste was in process of being removed from the ditches. As of the preparation date of this document, (7/6/2004), the permittee has not informed the DOGM -

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

The permittee had the resources on site to achieve compliance.

3. Was the submission of plans prior to physical activity required by this NOV/CO?
Yes___ No___ If yes, explain.

Peter Hess
Authorized Representative

Peter Hess
Signature

7/6/2004
Date
@ 11:10 AM

↓
that the ditches are ready for inspection.